

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**BARBARA ETCITY,**

**Plaintiff,**

**vs.**

**Civil No.     15-892 SMV**

**NANCY A. BERRYHILL, Acting  
Commissioner of the Social Security  
Administration,**

**Defendant.**

**ORDER FOR THE AWARD OF ATTORNEY FEES AND COSTS  
PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

THIS MATTER is before the Court on Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support [Doc. 26], filed on June 15, 2017. **The parties having stipulated to EAJA fees in the amount of \$6,500.00 for work performed in 2015 and 2016** [see Doc. 27]. The Court being otherwise fully advised in the premises, FINDS that the motion is well-taken and will be **GRANTED IN PART**.

IT IS THEREFORE ORDERED THAT the motion is **GRANTED IN PART**, and **Plaintiff is awarded \$6,500.00 in attorney fees** pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See Astrue v. Ratliff, 560 U.S. 586, 591-93 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. See 28 U.S.C. § 2412(c)(1) (2006).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986). IT IS SO ORDERED.

June 30, 2017.



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THE HONORABLE STEPHAN M. VIDMAR  
UNITED STATES MAGISTRATE JUDGE

Submitted By:

/s/ Narissa C. Webber

Narissa C. Webber

Special Assistant United States Attorney

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